

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HUSSAIN D. VAHIDALLAH,

Plaintiff,

vs.

CENTER FOR MEDICARE AND
MEDICAID SERVICE - CMS,

Defendant.

CASE NO. 08cv843-L (JMA)

**ORDER DENYING PLAINTIFF'S
MOTION TO PROCEED *IN FORMA*
*PAUPERIS***

Plaintiff Hussain D. Vahidallah filed a complaint claiming that Defendant denied him Medicare benefits in violation of his rights under the Americans with Disabilities Act. Plaintiff did not pay the \$350 filing fee. All parties instituting any civil action, suit or proceeding in a United States District Court must pay a filing fee. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff's failure to prepay the entire fee only if the plaintiff is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). *See Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). Plaintiff's initial motion to proceed *in forma pauperis* ("IFP") was denied by order filed May 12, 2008, because his declaration in support of the motion was largely incomplete. The complaint was dismissed without prejudice and Plaintiff was granted 60 days' leave to pay the requisite filing fee or submit the required information regarding his financial status. On May 29, 2008, Plaintiff

1 filed a document purporting to be his renewed IFP motion captioned “Proceed *in forma*
 2 *pauperis* Pursuant to 28 U.S.C. § 1915(a).” For the reasons which follow, Plaintiff’s
 3 motion to proceed IFP is **DENIED**.

4 Plaintiff’s renewed IFP motion appears to be his amended complaint. Attached to it
 5 are copies of the caption pages of two orders from cases Plaintiff had previously filed in
 6 this district. The court notes that in *Vahidallah v. San Diego Housing Commission et al.*,
 7 case no. 07cv371-JM (CAB), Plaintiff’s IFP motion was initially denied because, as in the
 8 instant case, Plaintiff failed to provide the requisite information regarding his financial
 9 status. (*See Order Denying Motion to Proceed in Forma Paupers*, filed Mar. 5, 2007.) His
 10 renewed motion was granted on May 14, 2007, after he provided additional financial
 11 information. In *Vahidallah v. Professional Examination Service*, case no. 03cv1800-J
 12 (AJB), Plaintiff’s IFP motion was granted on October 29, 2003.

13 Prior orders granting Plaintiff IFP status are not relevant for purposes of his present
 14 motion, particularly because the most recent order is more than a year old. Furthermore,
 15 none of the documents attached to Plaintiff’s renewed motion provide the financial
 16 information which was missing from Plaintiff’s initial motion.

17 Accordingly, Plaintiff’s renewed IFP motion is **DENIED** and the complaint is
 18 **DISMISSED** without prejudice. Plaintiff is granted 60 days’ leave to pay the filing fee
 19 required to maintain this action pursuant to 28 U.S.C. § 1914, or to re-file a motion to
 20 proceed IFP. If Plaintiff chooses to re-file an IFP motion, the motion must be filed on the
 21 form captioned as Motion and Declaration Under Penalty of Perjury in Support of Motion
 22 to Proceed *in Forma Pauperis*, which can be obtained from the office of the Clerk of
 23 Court.¹ The form must provide all of the information requested therein. Furthermore, **IF**

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 28 ¹ This is the same form Plaintiff used for his initial IFP motion, filed May 9, 2008 in this case.

1 **PLAINTIFF CHOOSES TO RE-FILE HIS IFP MOTION, HE MUST ATTACH A**
2 **COPY OF THIS ORDER.**

3 **IT IS SO ORDERED.**

4
5 DATED: May 30, 2008

6 
7 M. James Lorenz
United States District Court Judge

8 COPY TO:

9 HON. JAN M. ADLER
10 UNITED STATES MAGISTRATE JUDGE

11 ALL PARTIES/COUNSEL
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